

08-CV-05181-CMP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEN BLAIR,

Plaintiff,

vs.

THE BETHEL SCHOOL DISTRICT, a municipal corporation under the Laws of the State of Washington; TOM SEIGAL, the superintendent of Bethel School District and in his individual capacity; and his marital community with "JANE DOE" SEIGAL; BRENDA ROGERS, as president of the Bethel School District school board, and in her individual capacity and her marital community with "JOHN DOE" ROGERS; SUSAN SMITH, vice president of the Bethel School District school board, in her individual capacity and her marital community with "JOHN DOE" SMITH; JOY COOK, school board member of the Bethel School District school board in her individual capacity and in her marital community with "JOHN DOE COOK"; and JOHN MANNING, board member of the Bethel School District School Board in his individual capacity and his marital community with "JANE DOE" MANNING;

Defendants.

NO. **C08 5181** FDB

COMPLAINT FOR DAMAGES
AND JURY DEMAND

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3 COMES NOW the plaintiff, Ken Blair, by and through his attorney of record, Paul A.
4 Lindenmuth of *The Law Offices of Ben F. Barcus & Associates, P.L.L.C.*, and complains and alleges
5 as follows:

6 **I. JURISDICTION AND VENUE**

7 1.1 In the instant matter, Plaintiff is bringing claims pursuant to 42 USC § 1983, and as
8 such, this matter falls within the Federal Question jurisdiction of this court pursuant to 28 USC §
9 1331.

10 1.2 All acts alleged herein occurred within the venue of the United States District Court
11 for the Western District of Washington at Tacoma.

12 1.3 Based on information and belief, all parties reside and are located within the venue of
13 and for the Western District of Washington at Tacoma. All actions alleged herein occurred within said
14 venue.
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16 **II. THE PARTIES**

17 2.1 Plaintiff, Ken Blair, at all times relevant hereto was a resident of Puyallup, Pierce
18 County, Washington. From 1999 until the present he has been a member of the Bethel School District
19 school board.

20 2.2 Defendant, Bethel School District, is a municipal corporation under the Laws of the
21 State of Washington. It is the entity of which Plaintiff is an elected member of its board. The Bethel
22 School District is being sued under the municipal liability jurisprudence developed by United States
23 Supreme Court under 42 USC § 1983. With respect to plaintiff's claims pursuant to 42 USC § 1983
24 it specifically alleged that the unlawful conduct described below was done by persons which were/are
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3 “policy makers” for the Bethel School District, and as such their actions constitute the actions of the
4 defendant, Bethel School District.

5 2.3 The individual Defendants (with the exception of Defendant Tom Seigal) at all times
6 relevant hereto were members of the Bethel School Board. Defendant Brenda Rogers, at all times
7 relevant hereto was the president of the school board and Defendants Smith, Cook and Manning were
8 board members. Further, at all times relevant hereto, Defendant Tom Seigal was/is the superintendent
9 of the Bethel School District who was appointed and/or hired by the school board. It is specifically
10 alleged that all acts alleged herein were done under “color of state law” and “color” of the offices held
11 by the individually named Defendants with the Bethel School District. Each of the individually
12 named Defendants are being sued solely in their individual capacities. It is specifically alleged that
13 Defendants combined with each other to engage in a conspiracy (agreement) to violate Plaintiff’s
14 rights to freedom of speech protected by the United States Constitution. It is also alleged that the
15 Defendants either directly participated in the violation of Plaintiff’s Constitutionally protected rights
16 and/or set into motion a series of events, that led to the deprivation by others, of Plaintiff’s First
17 Amendment Rights.
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19 2.4 With respect to the each individually named Defendants, it is specifically alleged that
20 all acts performed by them were done for the benefit of their marital community with the “John” and
21 “Jane Does” listed above. The individual “Doe” Defendants are named solely to insure that a
22 judgment entered herein is not only applicable to the individual but also to their marital community
23 with the listed “Jane” and “John Does”.
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III. FACTUAL BACKGROUND

3.1 Plaintiff, Ken Blair, became a Bethel School District school board member in 1999 and through the elections process retains that position to the present. He is next up for election in the year 2009. He has stood for election in 1999, 2001 and 2005. In January of 2007 he was appointed the position of vice president of the Bethel District School Board and the natural progression from that position would be to president of the board.

3.2 Over the last three to four years, Plaintiff has had substantial concern with the method and manner that Superintendent Tom Seigal has performed his job duties as superintendent of the Bethel School District. As a result of such concerns, Plaintiff over the past three years has voted "no" when it came to renewing Mr. Seigal's contract for such a position. In addition, Plaintiff also protested the method and manner in which Mr. Seigal has been evaluated by the board.

3.3 Plaintiff Blair was specifically concerned that Superintendent Seigal was having his contract renewed and was being provided pay raises and positive performance evaluations, even though the district's test scores were down, people were being hired in contravention with the district's anti-nepotism policies and that a grant company was given \$10,000 per month to seek out grants and the contract was maintained despite the fact that the grant company was providing no results. From the Plaintiff's point of view, this resulted in a waste of over \$140,000 of the district's assets. In addition, Plaintiff had grave concerns that false information was being conveyed within the district's news letter at the behest of the superintendent. It also came to Plaintiff's attention that there were allegations that Mr. Seigal and/or his wife were stealing oppositions' yard signs which related

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3 to levy and school district bond measures. The district, in response to such concerns, made no efforts
4 were made to investigate as to whether or not the allegations were true or false, despite the fact that
5 Plaintiff was urging such investigation. Finally, substantial controversy grew as to the method and
6 manner in which Mr. Seigal was proceeding in acquiring property for the district's "special skills
7 center".

8 3.4 Plaintiff's votes not to renew the superintendent's contract caused substantial tension
9 between Mr. Blair and other school board members inclusive of Rogers, Smith, Cook and Manning.
10 Matters came to a head on or about September 26, 2007 when Mr. Blair gave substantial statements
11 to the news media explaining why he had voted against the renewal of Superintendent Seigal's
12 contract which also included a pay raise. Within his media comments, Mr. Blair expressed concerns
13 about the superintendent's relationship with local politicians, the size of his raise and the method and
14 manner in which Superintendent's Seigal had performed his job duties as related to the development
15 of proposed regional career of vocational skills center (skill center) for the Bethel School District.
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17 3.5 Following Mr. Blair's public criticism of Superintendent Seigal's job performance and
18 contract renewal, Mr. Blair began using public disclosure requests to explore the method and manner
19 in which the superintendent performed his duties. The public disclosure requests are attached to this
20 complaint as Exhibit No. 1 and are incorporated by this reference as if fully set forth herein.
21 Specifically Mr. Blair began making inquiring regarding whether or not Mr. Seigal, or members of
22 his family, had stolen campaign sides that were in opposition to school district bond levy/elections.
23 He inquired as to whether or not the Port of Tacoma had asserted any formal opposition to the
24 placement of the special skills center within the Frederickson, Pierce County area. He also made
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3 inquires with respect to the amount of money paid to the above mentioned grant writing company in
4 order to find out how much the company had been paid and how much money the school district had
5 received as a result of the company's efforts to produce grants on behalf of the school district. Other
6 public disclosure requests by Mr. Blair were a general inquiry to see as to whether or not the
7 superintendent was providing proper stewardship over the school district, its students and its funds
8 and to determine whether or not he was engaging in any illegal or otherwise unethical practices while
9 being employed with the district.

10 3.6 As a direct and proximate result of Mr. Blair's exercise of his free speech rights by
11 speaking to the local news media on September 26th, his exercise of his right to vote no (dissenting
12 vote) as to the renewal of superintendent's contract and his efforts through public disclosure requests
13 to gather information regarding superintendent Seigal's possibly illegal misconduct, plaintiff was
14 subject to retaliation by the other members of the school board in the form of removal of his title of vice
15 president of the school board. Said removal of title occurred in the executive session which occurred
16 on or about October 10, 2007.

18 3.7 In addition, as a direct and proximate result of Mr. Blair's exercise of his rights as a
19 citizen to freedom of speech and to petition government for information by disclosure requests, he has
20 been subject to a substantial amount of administrative harassment, including denial of travel requests,
21 information in relevance to the performance of his job duties and generally has been treated as a pariah
22 by his colleagues and peers within the Bethel School District school board. In addition, he has been
23 subject to retaliation by Superintendent Seigal who no longer provides the pertinent information which
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3 is necessary for the performance of Plaintiff's elected duties, and which has been provided by other
4 members of the school board to other members of the school board.

5 3.8 It is specifically alleged that a substantial and motivating factor in the adverse actions
6 being taken against Mr. Ken Blair, are/were his exercise of freedom of speech and his exercise of his
7 right to petition the government for information under statutes that are otherwise available to any and
8 all members of the public and/or citizens.

9 3.9 As a direct and proximate result of the retaliatory actions taken against Plaintiff Blair by
10 his fellow board members, the superintendent and other staff of the Bethel School District, Mr. Blair
11 has suffered loss of reputation, personal humiliation and significant emotional distress and anxiety.
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13 IV. CAUSE OF ACTION

14 That paragraphs 1.1 to 3.9 above, are incorporated by this reference, as if specifically set forth
15 herein:
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17 4.1 **Violation of First Amendment Rights to Freedom of Speech and/or to petition**
18 **government for redress and/or to petition government:** That a substantial and/or motivating factor
19 in the removal of Plaintiff's vice presidency position and title, and the administrative harassments
20 discussed above, was a desire to punish plaintiff for speaking out as a citizen on issues of public
21 concern and for petitioning government for information that is otherwise available to members of the
22 public and/or citizens and such actions were violative of Plaintiff's First Amendment Rights.
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24 V. RELIEF

25 WHEREFORE, plaintiff prays for relief as follows:

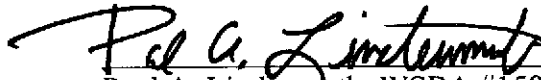
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- 2 5.1 Special and general compensatory damages;
- 3 5.2 For punitive damages against the individual Defendants;
- 4 5.3 Prejudgment interest on all liquidated amounts;
- 5 5.5 Full costs and attorney's fees pursuant to 42 USC § 1988;
- 6 5.6 For such other and further relief, (including the injunctive relief of reinstatement of his
- 7 title) as the Court deems just and equitable; and
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- 9 5.7 That these pleadings be deemed to conform to the proof presented at time of trial.

10 **VI. JURY DEMAND**

11 6.1 That Plaintiff herein, pursuant to the Federal Rules of Civil Procedure and the Local

12 Rules of this Court, respectfully request that this matter be heard by a jury of six.

13 DATED this 12 day of March, 2008.

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15 Paul A. Lindenmuth, WSBA #15817
16 Attorney for Plaintiff

17 **VERIFICATION**

18

19 STATE OF WASHINGTON)

20) ss.

COUNTY OF PIERCE)

21 I, KEN BLAIR certify under penalty of perjury under the laws of the State of Washington that

22 I am the Plaintiff above named. That I have read the foregoing Complaint for Damages and Jury Demand and believe the same to be true and correct.

23 FURTHER YOUR AFFIANT SAYETH NAUGHT.

24 DATED this 12 day of March, 2008 at Tacoma, Washington.

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Ken Blair
Ken Blair

On this day personally appeared before me Ken Blair known to me to be the individual described in and who executed the within and foregoing Complaint and acknowledged that he signed the same as his free and voluntary act for the for the uses and purposes therein mentioned.

SUBSCRIBED AND SWORN to this 12th day of March, 2008.

Neil A. Heller
NOTARY PUBLIC for Washington State
Residing At: Sumner Pierce Ct WA
My Commission Expires: 1-10-10

NOTARY PUBLIC
01-10-10
OF WASH.